

In The Matter Of:

COPY

Chicago Police Board

Bruce Askew

Report of Proceedings

September 23, 2009

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1 BEFORE THE POLICE BOARD
2 OF THE CITY OF CHICAGO
3 IN THE MATTER OF CHARGES)
4 FILED AGAINST) Case No. 09-2706
5 P.O. BRUCE ASKEW)
6
7 CONTINUED REPORT OF PROCEEDINGS
8 had at the status in the above-entitled matter
9 before Mr. Michael Berland, Hearing Officer, at
10 30 North LaSalle Street, Suite 1240, Chicago,
11 Illinois, on September 23, 2009, at the hour of
12 10:15 a.m.
13 -----
14 APPEARANCES:
15 CITY OF CHICAGO
16 DEPARTMENT OF LAW
17 BY: MS. HILLINA TAMRAT and
18 MS. TAI DUNCAN
19 30 North LaSalle Street
20 Suite 1020
21 Chicago, Illinois 60602,
22 on behalf of the Superintendent;
23 MR. JOSEPH RODDY,
24 On behalf of the Respondent;
25 POLICE BOARD OF THE CITY OF CHICAGO
26 MR. MAX CAPRONI

1 HEARING OFFICER BERLAND: This is the
2 continued hearing of Officer Bruce Askew,
3 09-2706. Counsel should identify themselves for
4 the record
5 MS. TAMRAT: Hillina Tamrat on behalf of the
6 Superintendent.
7 MS. DUNCAN: Tai Duncan on behalf of the
8 Superintendent.
9 MR. RODDY: Joseph Roddy on behalf of Bruce
10 Askew who is present.
11 HEARING OFFICER BERLAND: Before we swear
12 the next witness, we've marked as Hearing Officer
13 Exhibit 1 the complimentary and disciplinary
14 record. That would be placed in a sealed
15 envelope and reviewed only in the event there is
16 a finding of guilt by the Board. Any objection
17 from the Superintendent.
18 MS. TAMRAT: We have no objections to it
19 being considered.
20 HEARING OFFICER BERLAND: The respondent?
21 MR. RODDY: None.
22 HEARING OFFICER BERLAND: So it's admitted.
23 (WHEREUPON, Hearing
24 Officer Exhibit No. 1 was

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1 admitted into evidence.)
2 HEARING OFFICER BERLAND: Swear the next
3 witness.
4 (Witness was duly sworn.)
5 DANA MONE'T CAIL,
6 called as a witness herein, after having been
7 first duly sworn, was examined and testified as
8 follows:
9 DIRECT EXAMINATION
10 BY MS. TAMRAT:
11 Q. Please state your full name and spell it
12 for the record.
13 A. My name is Dana Mone't Cail. D-A-N-A.
14 M-O-N-E apostrophe T. C-A-I-L.
15 Q. And, Ms. Cail, are you employed?
16 A. Yes, I am.
17 Q. Where are you employed?
18 A. At Holy Cross Hospital.
19 Q. Where is that located?
20 A. 2701 West 68th Street, Chicago,
21 Illinois. 60629.
22 Q. And what is your job title at Holy
23 Cross?
24 A. I'm the subpoena clerk.

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1 Q. And how long have you been a subpoena
2 clerk?
3 A. Over three years.
4 Q. And what division do you work in?
5 A. Health information management.
6 Q. Could you tell us what your duties and
7 responsibilities are as a subpoena clerk for the
8 health information management services
9 department?
10 A. My duties are receiving the subpoenas
11 and processing them, complying with HIPAA, within
12 30 days to respond, going to court on some of the
13 subpoenas, and the rest of them sending them out
14 and different various requests from attorneys and
15 from Workers' Comp and court.
16 Q. Does the health information management
17 services division maintain records?
18 A. Yes, they do.
19 Q. What types of records does your division
20 maintain?
21 A. We maintain all records as far as
22 hospital inpatient records, ERs, outpatients and
23 one-day surgeries.
24 Q. And how are the records maintained?

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1 A. The records are maintained as far as
2 medical record numbers. The ERs are maintained
3 as far as days, the dates. And they're kept in
4 their separate folder and in different various
5 places.
6 Q. And that would be within the health
7 information management system's division?
8 A. That is correct.
9 Q. And where are they kept, the records?
10 A. It all depends. Most recent records are
11 kept in the medical records department. And
12 other records that have years on them are kept in
13 our medical records record retention room.
14 Q. Do you have access to these medical
15 records as part of your regular duties?
16 A. Yes, I do.
17 Q. And are you familiar with the -- with
18 how the records are maintained?
19 A. Yes, I am.
20 Q. Are you familiar with the types of
21 records that are maintained?
22 A. Yes, I am.
23 Q. Are you familiar with the types of
24 records that are maintained -- the types of

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1 records that are used when a patient comes in to
2 the emergency room?
3 A. Yes, I am.
4 Q. What types of records are maintained in
5 such cases?
6 A. In the emergency room it all varies.
7 They have triage records. They have face sheets,
8 as far as all the information on the patient,
9 they have labs, CAT scans, radiology. It all
10 depends on what exactly the patient calls for,
11 what types of tests are done and whatever
12 procedures they have.
13 Q. Does the health information management
14 systems division of Holy Cross Hospital maintain
15 medical records as part of its regular course of
16 business?
17 A. Yes.
18 Q. And do you have access to these medical
19 records as part of your duties as a subpoena
20 clerk?
21 A. Yes, I do.
22 Q. This document has been marked as
23 Superintendent's Exhibit No. 5.
24 (WHEREUPON, said document

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1 was marked as
2 Superintendent Exhibit No.
3 5 for Identification.)
4 HEARING OFFICER BERLAND: Why don't you tell
5 me what you're marking?
6 MS. TAMRAT: Emergency room records for
7 Jimmy Brown for the date of 4/19/2007. It
8 consists of 13 pages which have been marked,
9 which have been numbered. I'm handing a copy of
10 the Superintendent Exhibit No. 5 to Mr. Roddy and
11 another to Mr. Berland. Copy of Superintendent's
12 Exhibit No. 5 to Ms. Dana.
13 I would ask that if the transcripts
14 could reflect that we're going to be having
15 testimony regarding medical records, which are
16 confidential, so if the transcript could indicate
17 that, if that's possible.
18 HEARING OFFICER BERLAND: I'm not quite sure
19 what you're requesting. Normally everything
20 that's part of this record is open not only to
21 the Board, in the event of the appeal by either
22 party I suppose someone could go if there is an
23 appeal and request a protective order as to these
24 records, but as of this point in time I'm not

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1 sure what you're asking me to do.
2 MS. TAMRAT: Just if the transcript can
3 reflect -- if I am correct I think there is a
4 procedure where transcripts can reflect that
5 certain testimony be considered confidential, and
6 in the event it does go to hearing they would be
7 kept separately. In the event it goes on appeal,
8 they would be kept separately and kept
9 confidential.
10 HEARING OFFICER BERLAND: I know of no such
11 provision. If Mr. Roddy doesn't object --
12 MR. RODDY: I have no objection.
13 MS. TAMRAT: We had actually entered into a
14 protective order in this case regarding medical
15 records.
16 HEARING OFFICER BERLAND: You have. I was
17 not aware of that. That's been filed with
18 Mr. Caproni?
19 MS. TAMRAT: I believe it has been. Yes.
20 HEARING OFFICER BERLAND: That's fine then.
21 BY MS. TAMRAT:
22 Q. Ms. Cail, I'll direct your attention to
23 what's been marked as Superintendent Exhibit No.
24 5. Do you recognize these documents?

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1 A. Yes, I do.
2 Q. What do you recognize them to be?
3 A. This is the triage notes. This is
4 actually the first paper that is actually
5 processed and done when a patient comes into the
6 emergency department.
7 Q. And do these records pertain to a
8 patient by the name of Jimmy Brown?
9 A. Yes, they do.
10 Q. And what is the date of the ER visit?
11 A. 4/19/2007.
12 Q. And if you can let me know if you
13 recognize the rest of the pages in this exhibit.
14 A. Yes, I do.
15 Q. And do you recognize them to be medical
16 records for Mr. Jimmy Brown's visit to the ER on
17 4/19/07?
18 A. That is correct.
19 Q. Ms. Cail, did you receive a subpoena for
20 these medical records from me?
21 A. Yes, I did.
22 Q. Did you provide me with copies of these
23 medical records?
24 A. Yes, I did.

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1 Q. Did you retrieve the original documents
2 in order to process the subpoena?
3 A. Yes, I did.
4 Q. Where did you retrieve them, the
5 original documents from?
6 A. I retrieved the original documents from
7 medical records, record retention room.
8 Q. Did you personally retrieve the records?
9 A. Yes, I did.
10 Q. Did you process the subpoena request for
11 these records pursuant to your regular duties?
12 A. Yes, I did.
13 Q. And where are the original for
14 Superintendent's Exhibit No. 5?
15 A. The originals are right there on the
16 table here today.
17 Q. If the record could -- could you please
18 indicate which table?
19 A. On the desk right in front of you.
20 MS. TAMRAT: If the record could indicate
21 that Ms. Cail referred to documents that are on
22 the table where counsel is sitting.
23 HEARING OFFICER BERLAND: Go ahead. It's a
24 13-page document.

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1 BY MS. TAMRAT:
2 Q. And, Ms. Cail, did you bring the
3 original documents with you here today?
4 A. Yes, I did.
5 Q. I have the original document. I don't
6 want to mark them because they are originals and
7 they have to go back to the hospital.
8 HEARING OFFICER BERLAND: I understand that.
9 MR. RODDY: I have no trouble stipulating
10 those are true and accurate copies of the
11 original. I don't have any problem with that.
12 HEARING OFFICER BERLAND: Okay.
13 BY MS. TAMRAT:
14 Q. That being said, I will ask Ms. Cail
15 if -- if what you have in front you,
16 Superintendent's Exhibit No. 5, if you recognize
17 that as accurate copies of the original records
18 for Mr. Jimmy Brown for 4/19/07 that you
19 retrieved from the hospital?
20 A. Yes, they are.
21 MS. TAMRAT: At this point, Superintendent
22 would ask that Superintendent Exhibit No. 5 be
23 admitted into evidence.
24 HEARING OFFICER BERLAND: Any objection?

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<p>1 MR. RODDY: None.</p> <p>2 MS. TAMRAT: And we ask that it be admitted</p> <p>3 into evidence pursuant to the protective order</p> <p>4 that has been entered in this case.</p> <p>5 HEARING OFFICER BERLAND: That would be</p> <p>6 fine.</p> <p>7 (WHEREUPON, Superintendent</p> <p>8 Exhibit No. 5 was admitted</p> <p>9 into evidence.)</p> <p>10 BY MS. TAMRAT:</p> <p>11 Q. Ms. Cail, if I can direct your attention</p> <p>12 to the first page of the exhibit. At what point</p> <p>13 is the emergency department triage notes form</p> <p>14 filled out?</p> <p>15 A. The notes are filled out when the</p> <p>16 patient arrives. The triage nurse is the first</p> <p>17 one to actually see the patient, ask them what</p> <p>18 exactly is wrong with them, what are they here</p> <p>19 for, check their vital signs and document</p> <p>20 everything down.</p> <p>21 Q. Would that be the first contact the</p> <p>22 patient has with the hospital?</p> <p>23 A. Yes.</p> <p>24 Q. With the hospital staff?</p>	<p>1 nurse.</p> <p>2 Q. And page four?</p> <p>3 A. This is actually orders from the doctor,</p> <p>4 as far as they want CAT scans, labs, anything</p> <p>5 else on the patient. And on the bottom of this</p> <p>6 is actually a medication list, so it can be</p> <p>7 medications that the patient is already on, and</p> <p>8 medication that is going to be administered to</p> <p>9 the patient.</p> <p>10 Q. And page number five.</p> <p>11 A. This is a discharge, lets you know the</p> <p>12 diagnosis, what their follow-up should be, has</p> <p>13 the patient's signature and a time, and on the</p> <p>14 bottom of it is a prescription.</p> <p>15 Q. Page number six?</p> <p>16 A. This is also a page that's filled out</p> <p>17 when the patient goes in the back of the ER room</p> <p>18 and is seen in the room. And they let you know</p> <p>19 any tests that were performed on the patient, and</p> <p>20 as far as anything that was done as far as their</p> <p>21 pulse and temperature.</p> <p>22 Q. And page number seven?</p> <p>23 A. This is just the nurse's notes.</p> <p>24 Everything that she asked the patient before he</p>
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<p>1 And how about the second page?</p> <p>2 A. The second page is the face sheet. This</p> <p>3 is actually registration. Once the patient sees</p> <p>4 the triage nurse, he or he is instructed to have</p> <p>5 a seat and wait for the registration to call</p> <p>6 them. This is all of their information.</p> <p>7 Q. So page number two is filled out at the</p> <p>8 time of the registration?</p> <p>9 A. Yes. Actually printed from the</p> <p>10 computer.</p> <p>11 Q. How about page number three?</p> <p>12 A. Page number three is filled out when the</p> <p>13 patient goes in the back of the emergency room</p> <p>14 and is actually seen by the nurse and actually</p> <p>15 have other documents as far as from the doctor.</p> <p>16 Q. So page three the information that is</p> <p>17 filled out where it says, for instance, HPI,</p> <p>18 chief complaint, headache. Is that the type of</p> <p>19 information that the nurse fills out --</p> <p>20 A. Yes.</p> <p>21 Q. -- once the patient goes to the room?</p> <p>22 A. Yes, it's like a double check, as far as</p> <p>23 making sure that they have the same complaint and</p> <p>24 not multiple from what they told the triage</p>	<p>1 comes in -- I mean before the doctor comes in,</p> <p>2 and this is just her document and anything that</p> <p>3 was administered as far as any Tylenol, any</p> <p>4 ultrasound, and it just has the numbers and the</p> <p>5 time that anything was done to the patient.</p> <p>6 Q. And page number eight.</p> <p>7 A. Number eight is flow sheets, as far as</p> <p>8 if anything was administered to the patient, any</p> <p>9 medication, they would write it down. And then</p> <p>10 on the bottom they normally take blood pressure</p> <p>11 and just to make sure that the patient's vital</p> <p>12 signs are stable before they do discharge them.</p> <p>13 Q. And number nine?</p> <p>14 A. This is laboratory. This is lab that</p> <p>15 was drawn and these are the results.</p> <p>16 Q. Page number ten.</p> <p>17 A. This is a worksheet. It's actually an</p> <p>18 exam that was done on the patient. And these are</p> <p>19 their results.</p> <p>20 Q. 11.</p> <p>21 A. This is actually another lab.</p> <p>22 Q. Number 12.</p> <p>23 A. This is the report of the CAT scan that</p> <p>24 was done on the patients and the results.</p>

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1 Q. Number 13
2 A. This is a coding sheet. This is just
3 what they used to code and get their prices of
4 the results and all of the tests that were
5 performed on the patient.
6 MS. TAMRAT: We have nothing further.
7 MR. RODDY: Two questions.
8 CROSS-EXAMINATION
9 BY MR. RODDY:
10 Q. One, the subpoena, was it a specific
11 date that was asked for or did the City ask for
12 all records relative to Jimmy Brown?
13 A. No, it was a specific date.
14 Q. And the second question is on page six,
15 this is the doctor's final diagnosis; is that
16 correct? At the bottom there.
17 A. Yes.
18 Q. Thrombophlebitis and cellulitis. I have
19 nothing further. Thank you.
20 HEARING OFFICER BERLAND: Anything further?
21 MS. TAMRAT: No.
22 HEARING OFFICER BERLAND: Okay. You are
23 excused. Take your microphone off, please.
24 (Witness Excused.)

1 Q. As coordinator of special
2 investigations, what are your duties and
3 responsibilities?
4 A. As coordinator of investigations, I
5 review all the cases that were filed -- basically
6 filed the night before, assign those cases out to
7 the investigative teams, review cases that fall
8 under the teams that I oversee. Review police
9 involved shootings. Develop training for the
10 investigators.
11 Q. At some point did you also undergo
12 training?
13 A. Yes, I did.
14 Q. What kind of training -- if you can give
15 some examples of what kind of training you
16 received from OPS or IPRA?
17 A. Well, OPS and IPRA we have continuous
18 training. We go through the same courses that
19 the recruits, police recruits, receive for
20 training. We go through the same training that
21 the detectives go through and we have refresher
22 courses on that. And various other refresher
23 courses on the use of force, police-involved
24 shootings.

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1 HEARING OFFICER BERLAND: Swear the next
2 witness, please.
3 (Witness was duly sworn.)
4 MICHAEL DUFFY,
5 called as a witness herein, after having been
6 first duly sworn, was examined and testified as
7 follows:
8 DIRECT EXAMINATION
9 BY MS. DUNCAN:
10 Q. Please state and spell your name for the
11 record.
12 A. Michael Duffy. D-U-F-F-Y.
13 Q. Mr. Duffy, what is your occupation?
14 A. Coordinator of investigations with the
15 Independent Police Review Authority.
16 Q. How long have you had this title of
17 coordinator of investigation at IPRA?
18 A. Since IPRA came into being in 2008.
19 Q. So prior to that, what department did
20 you work for?
21 A. Office of Professional Standards.
22 Q. How long have you been an employee of
23 the City of Chicago?
24 A. 29 years.

1 Q. What is the goal of the Independent
2 Police Review Authority? What is it established
3 to do?
4 A. Well, the Independent Police Review
5 Authority was established to become a separate
6 entity outside of the police department, to
7 conduct investigations into allegations made by
8 citizens of police misconduct.
9 Q. Is this the same mission that Office of
10 Professional Standards had?
11 A. Same mission, but because now we're an
12 independent police department, we no longer fall
13 under the jurisdiction of the Superintendent of
14 Police.
15 Q. Are you familiar with an IPRA
16 investigation involving a police officer named
17 Bruce Askew?
18 A. Yes, I am.
19 Q. How are you familiar with that
20 investigation?
21 A. During the course -- when that
22 investigation was initiated, I was active chief
23 administrator of the Office of Professional
24 Standards.

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1 Q. And in that role as acting chief
2 administrator, what was your responsibility with
3 respect to this case?
4 A. Well, any case, you know, especially
5 cases where videos, they were brought to my
6 attention, because cases with videos were
7 referred to the State's Attorney's Office, and
8 then I would have monthly briefings on the
9 investigations until such time as they were
10 completed.
11 Q. Are you aware that one of the charges
12 against Officer Askew from that investigation is
13 that he arrested a civilian named Jimmy Brown in
14 retaliation of Jimmy Brown filing a complaint
15 with OPS?
16 A. Yes.
17 Q. Can you please explain the significance
18 of the act of retaliation, arresting for
19 retaliation with respect to the work IPRA does?
20 A. Well, the work of IPRA, formerly OPS, if
21 complaints are registered with our office by
22 citizens and the person who the allegation is a
23 against department member, if he's going out and
24 retaliating against the people who make the

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1 complaint, in one fashion or another, that may
2 have a chilling effect on people willing to come
3 forward and make these complaints.
4 And if the citizens are not coming
5 forward and making the complaints, we will not
6 know about the complaints and we will not be able
7 to -- so we won't be able to conduct an
8 investigation.
9 And part of the investigative
10 process is to identify behavior we would like to
11 correct. And we would not be able to do that if
12 people are not filing their complaints because
13 they fear retaliation.
14 Q. Is the fact that a police officer uses
15 the basis -- sorry.
16 Does IPRA, or then OPS, consider it
17 a serious issue for police officers to use the
18 filing of a complaint against them as a basis for
19 their use of police power?
20 MR. RODDY: Objection. I don't know if this
21 is hypothetical or not, but the predicate has got
22 to be some showing in the record, which I don't
23 think there is, that the arrest was based on
24 retaliation, Mr. Berland.

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1 MS. DUNCAN: Well, Superintendent would
2 argue that the statement that Officer Askew gave,
3 which is also in evidence, he through line of
4 questioning admits he arrested Jimmy Brown for
5 breaking the rules of the game, that sort of
6 thing which is actually in the record. When
7 asked what that meant, for filing a complaint to
8 OPS.
9 HEARING OFFICER BERLAND: I will let you get
10 a response. Let's finish up with this area of
11 inquiry.
12 MS. DUNCAN: I'll rephrase the question
13 then.
14 BY MS. DUNCAN:
15 Q. Does IPRA and then OPS consider it a
16 serious issue for police officers, this is in
17 general, to use whether an individual has filed a
18 complaint with IPRA or OPS as a basis for their
19 use of police power in that person, is that
20 considered serious?
21 A. Yes.
22 Q. Are you aware of an April 15th 2007,
23 incident where Bruce Askew entered a currency
24 exchange and pushed a civilian named Jimmy Brown?

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1 A. Yes.
2 Q. This is another general question. If a
3 police officer has reason to believe that a crime
4 has been or is being committed, does that officer
5 have a responsibility to take police action?
6 A. Yes.
7 Q. Is that the same if the officer is on
8 duty versus off duty?
9 A. Well, there is a slight difference if on
10 duty or off duty. If they're off duty, they are
11 required to take police action, but police action
12 can be a minimum just calling 911 minimum.
13 Q. Is it appropriate for a police officer
14 to push a civilian?
15 A. Given the circumstances it could be.
16 Q. Is an officer required to arrest a
17 civilian if he has put his hands on that
18 civilian?
19 A. Well, the theory is if you are in a
20 position where you have to put your hands on a
21 person, you should be arresting that person.
22 MS. DUNCAN: No further questions.
23 HEARING OFFICER BERLAND: Cross-examination.
24 MR. RODDY: I think this is number two,

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1 Askew 2.
2 HEARING OFFICER BERLAND: One second. That
3 is your next exhibit. What is it, please?
4 MR. RODDY: Askew 2. That's the only one I
5 have.
6 (WHEREUPON, said document
7 was marked as Askew
8 Exhibit No. 2 for
9 Identification.)
10 HEARING OFFICER BERLAND: Off the record and
11 make a copy. Off the record.
12 (Brief pause.)
13 HEARING OFFICER BERLAND: You can go ahead.
14 CROSS-EXAMINATION
15 BY MR. RODDY:
16 Q. Show you what has been marked as Askew
17 Exhibit 2, which is an attachment from the IPRA
18 file. And do you recognize what that is?
19 A. Yes.
20 Q. That's a description of an alleged phone
21 conference on April 16th; is that correct?
22 A. Alleged.
23 Q. Phone conference to the Chicago Police
24 Department?

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1 A. Well, it's a record of a 911 call being
2 made to Office of Emergency Management.
3 Q. And that's on April 16th, correct?
4 A. Correct.
5 Q. And it gives a location and it's a
6 citizen calling in as to what allegedly that
7 citizen saw or heard; is that correct?
8 A. Correct.
9 Q. And that call is at about 8:00 something
10 in the morning, correct, on April 16th?
11 A. Correct.
12 Q. It indicates that someone is selling
13 cigarettes and maybe dispensing drugs, correct?
14 A. Correct.
15 MR. RODDY: Nothing more.
16 HEARING OFFICER BERLAND: Any redirect?
17 MS. FLAHERTY: No further questions.
18 HEARING OFFICER BERLAND: Okay. You're
19 excused. Take off the microphone, please.
20 (Witness Excused.)
21 HEARING OFFICER BERLAND: Okay. Does the
22 Superintendent have any further witnesses?
23 MS. FLAHERTY: No, we do not.
24 HEARING OFFICER BERLAND: Do you have further

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1 documents that you want to admit?
2 MS. FLAHERTY: Yes, we do.
3 HEARING OFFICER BERLAND: What is that,
4 please?
5 MS. TAMRAT: It's Superintendent Exhibit No.
6 6, which is the statute, the battery statute. We
7 ask that administrative notice be taken of it.
8 HEARING OFFICER BERLAND: I assume you have
9 no objection of me taking judicial notice?
10 MR. RODDY: None.
11 HEARING OFFICER BERLAND: That is done.
12 Anything further from the Superintendent. Your
13 six exhibits are in evidence.
14 MS. TAMRAT: Nothing at this point in time
15 prior to the necessity of rebuttal.
16 HEARING OFFICER BERLAND: Swear the
17 Respondent in again, please.
18 (Witness was duly sworn.)
19 BRUCE ASKEW,
20 called as a witness herein, after having been
21 first duly sworn, was examined and testified as
22 follows:
23
24

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1 DIRECT EXAMINATION
2 BY MR. RODDY:
3 Q. Bruce, you've been previously sworn and
4 you have been sworn today, correct?
5 A. Correct.
6 Q. What is your date of birth?
7 A. December 10, 1954.
8 Q. And what is your date of appointment to
9 the police department?
10 A. July 30, 1990.
11 Q. You've had a chance to look at your
12 complimentary and disciplinary record which we've
13 agreed at the start of this hearing to introduce
14 into evidence; is that correct?
15 A. Yes, I have.
16 Q. Prior to April 15th, '07, had you ever
17 arrested Mr. Brown?
18 A. I've never arrested him physically.
19 Q. You gave -- what did you do with
20 Mr. Brown?
21 A. I've done several contact cards on
22 Mr. Brown. I also gave him administrative
23 notices.
24 Q. I'm going to show you what has been

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1 marked as Askew 3 and Askew 4.
2 HEARING OFFICER BERLAND: What is Askew 3,
3 please?
4 MR. RODDY: These are just tickets.
5 HEARING OFFICER BERLAND: Administrative
6 tickets?
7 MR. RODDY: Yes.
8 HEARING OFFICER BERLAND: Both 3 and 4?
9 MR. RODDY: Right.
10 (WHEREUPON, said documents
11 were marked as Askew
12 Exhibit Nos. 3 and 4 for
13 Identification.)
14 BY MR. RODDY:
15 Q. Show you, Bruce, what has been marked as
16 Exhibit 3 and 4 and ask you if these exemplify or
17 duplicate some of the tickets that you have
18 previously given to Mr. Brown?
19 A. Yes, they are.
20 Q. We have previously marked -- I don't
21 know where I put it. Calling your attention to
22 April 16th, 2007. Were you a Chicago police
23 officer on that day?
24 A. Yes, I was.

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1 Q. Did you get any communication
2 necessitating you responding to 6858 South
3 Ashland at or about 8:00 a.m. in the morning?
4 A. There was a call given to my beat 725
5 stating that there was an individual in the
6 currency exchange selling cigarettes and possible
7 drugs.
8 Q. And were you a one-person car, Bruce?
9 A. I was a one-person car.
10 Q. Did you go there that day?
11 A. Yes, I did.
12 Q. What, if anything, did you observe?
13 A. I observed the currency exchange and I
14 observed Mr. Brown talking to an unknown
15 individual. Unknown individual gave Mr. Brown
16 some USC. Mr. Brown then took that USC to the
17 newspaper stand where Mr. Henry Saffold was. Mr.
18 Saffold then gave Mr. Brown a couple of packs of
19 cigarettes and Mr. Brown gave those cigarettes to
20 the unknown individual.
21 Q. And this was -- your arrest was pursuant
22 to a citizen's complaint; is that correct?
23 MS. TAMRAT: Objection. Leading.
24 BY MR. RODDY:

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1 Q. Why did you respond?
2 HEARING OFFICER BERLAND: Go ahead.
3 THE WITNESS: I had a radio assignment from
4 operations to respond to that location for the
5 complaint.
6 MR. RODDY: If I can find the exhibit that I
7 previously marked and I can't find it, the radio
8 transcription.
9 BY MR. RODDY:
10 Q. I'm going to show you what has been
11 marked as Askew No. 2 and ask you if that is to
12 the best of your recollection what was given to
13 you as a Chicago police officer to respond to
14 6858 on April 16th?
15 A. Yes, it is.
16 Q. You made the arrest; is that correct?
17 A. Yes, I did.
18 Q. Did you follow up in court with that
19 arrest?
20 A. Yes.
21 Q. Was the result the same as Mr. Brown
22 testified previously when he was here?
23 A. No, it was not. Mr. Brown --
24 MS. TAMRAT: No question pending.

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1 MR. RODDY: Let me rephrase it.
2 BY MR. RODDY:
3 Q. In court was he found guilty, Mr. Brown?
4 A. Yes, he was.
5 MS. TAMRAT: Ob --
6 MR. RODDY: That's already been in evidence.
7 MS. TAMRAT: We would object to the
8 relevance though.
9 HEARING OFFICER BERLAND: Overruled.
10 BY MR. RODDY:
11 Q. And did Mr. Saffold plead guilty?
12 A. Yes, he did.
13 Q. If I can have one second here.
14 HEARING OFFICER BERLAND: Off the record,
15 please, Terry.
16 (Brief pause.)
17 HEARING OFFICER BERLAND: Okay. Do you have
18 anything further, Mr. Roddy?
19 MR. RODDY: No.
20 HEARING OFFICER BERLAND: Anything further
21 from the Superintendent?
22 MS. FLAHERTY: Yes.
23
24

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1 CROSS-EXAMINATION.
2 BY MS. DUNCAN:
3 Q. Officer Askew, on April 15th of '07 when
4 you entered the currency exchange near 69th and
5 Ashland at the beginning of that day, you weren't
6 on duty, were you?
7 A. No, I was not.
8 Q. At that time you did not arrest Jimmy
9 Brown; is that correct?
10 A. No, I did not.
11 Q. And you testified here earlier today
12 just now that prior to April 15th of '07 you had
13 not arrested Jim Brown; is that right?
14 A. That is correct.
15 Q. However, since that date you have
16 arrested him; isn't that right?
17 A. That is correct.
18 Q. On April 15th you did not write him a
19 ticket, did you?
20 A. No, I did not.
21 Q. And you didn't call for someone who was
22 on duty to respond?
23 A. No, I did not.
24 Q. You entered the currency exchange

1 HEARING OFFICER BERLAND: I will give you
2 limited opportunity to do so. You will not be
3 able to repeat what we've already gone through.
4 MS. DUNCAN: Okay.
5 BY MS. DUNCAN:
6 Q. So you testified that you did not arrest
7 Jimmy Brown on the 15th, but isn't it true that
8 you did put your hands on him on that date?
9 A. Yes, I did.
10 Q. You didn't have the authority to put
11 your hands on that day?
12 A. That is incorrect.
13 Q. You were unjustified in pushing him; is
14 that right?
15 A. That's incorrect.
16 Q. Were you justified in pushing him?
17 A. I was justified in pushing Jimmy.
18 MS. DUNCAN: No further questions at this
19 time.
20 HEARING OFFICER BERLAND: Anything further?
21 MR. RODDY: No.
22 HEARING OFFICER BERLAND: You are excused,
23 Officer Askew. Take off the mic.
24 (Witness Excused.)

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1 because you saw Jim Brown inside; isn't that
2 right?
3 A. That is correct.
4 Q. And you believed him to be a named
5 defendant in a general case report --
6 MR. RODDY: The only objection I have this
7 was all explored on the first day of the hearing.
8 That's step one.
9 Step two, it's way beyond my
10 examination which was limited to the 16th.
11 HEARING OFFICER BERLAND: How does it relate
12 to Mr. Roddy's examination?
13 MS. DUNCAN: To explain -- Mr. Roddy
14 actually brought up that the arrest issue prior
15 to that date but the arrest at issue is on the
16 16th.
17 He did open the door to questions
18 leading up to the arrest by saying that prior to
19 April 15th there had been -- not been arrests and
20 to enter into evidence items that pertain to
21 tickets that were received prior to that day.
22 So I am entitled to have questions
23 that relate to Mr. Askew -- Officer Askew and
24 Mr. Brown's interactions prior to April 16th.

1 HEARING OFFICER BERLAND: Off the record.
2 (Discussion off the
3 record.)
4 HEARING OFFICER BERLAND: Mr. Roddy.
5 MR. RODDY: I would move to induce into
6 evidence Exhibit 1, which pertains admittedly to
7 the Rule 14 violation which the City has
8 dismissed. But I also think it tangentially
9 applies to --
10 HEARING OFFICER BERLAND: It applies to
11 which violation?
12 MR. RODDY: I think the City might argue it
13 only applies to the Rule 14 violation, which they
14 have dismissed on the record.
15 But I think it also tangentially
16 applies to count two.
17 MS. TAMRAT: Count two --
18 HEARING OFFICER BERLAND: Count two of what?
19 MR. RODDY: Being that the arrest was done.
20 HEARING OFFICER BERLAND: Of what rule
21 violation? Count two of Rule 2?
22 MR. RODDY: Right.
23 MS. TAMRAT: We -- it's related to the Rule
24 14.

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1 HEARING OFFICER BERLAND: Before we begin
2 argument on it, can I get a copy of this
3 document?

4 MR. RODDY: This was the report that they
5 claimed -- IPRA claimed they couldn't find.

6 HEARING OFFICER BERLAND: Right, but I don't
7 have it up here and I should have it up here if
8 we're going to be talking about it.

9 MR. RODDY: Here it is. Here's an extra
10 copy, I think.

11 HEARING OFFICER BERLAND: On the record.
12 What is your objection?

13 MS. TAMRAT: Not relevant. The Rule 14 has
14 been withdrawn. In contrary to the argument that
15 it pertains to count two of Rule 2, it doesn't.
16 Count two speaks about the arrest of Mr. Brown on
17 April 16th of 2007. It does not speak about the
18 arrest -- it does not speak about the April 15th
19 incident and the reason why Mr. Askew went into
20 the currency exchange on April 15th. April
21 16th -- the April 16th incident is just the
22 arrest. It has nothing to do with what --

23 HEARING OFFICER BERLAND: What is the date
24 of the arrest?

1 April 15th did you say?

2 MR. RODDY: The arrest of April 16th was in
3 retaliation to the OPS or IPRA complaint of April
4 15th, two bases. One, this outstanding
5 complaint, which was testified to by the owner of
6 the establishment, plus two, what we have
7 established today.

8 So I think there's two bases as to
9 why count two would fall and one of those basis
10 is that report.

11 MS. TAMRAT: If I may respond to that
12 though. He's been charged with arresting Jimmy
13 Brown on April 16th because Jimmy Brown filed an
14 OPS complaint. That's the charge. So the
15 earlier incident, the February 2007 incident of
16 the currency exchange of trespass to the currency
17 exchange, that's not a reason for the arrest on
18 April 16th.

19 So if it's not the reason for the
20 April 16th arrest, it's not related.

21 It can be a defense to the arrest
22 on April 16th of 2007, because that occurred on
23 in February of '07, that was for criminal
24 trespass. The arrest on April 16th was for

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1 MS. TAMRAT: 16. So it actually has only to
2 do with the Rule 14, which as Mr. Roddy has
3 indicated has been withdrawn and it is not at
4 issue anymore. It's moot. So it does not apply
5 to count two.

6 HEARING OFFICER BERLAND: What is the date
7 of this original case incident report? Where is
8 it reflected on this three-page document?

9 MR. RODDY: Top left, 2/1/07.

10 HEARING OFFICER BERLAND: Top left of the
11 first page?

12 MR. RODDY: Right, yeah.

13 HEARING OFFICER BERLAND: Can you show me
14 where?

15 (Counsel so indicating.)

16 HEARING OFFICER BERLAND: Okay. How is this
17 relevant, Mr. Roddy, to any charges that remain?

18 MR. RODDY: Because I think it's
19 tangentially related to the April 16th arrest,
20 because they're saying and they tried to show
21 here today that the arrest was in retaliation for
22 April 15th. I think there's two bases why there
23 wasn't. One --

24 HEARING OFFICER BERLAND: The arrest of

1 selling cigarettes. So the February '07 incident
2 of criminal trespass cannot be related to the
3 April 16th arrest on the basis of -- after
4 Askew's position being he arrested him for
5 selling cigarettes.

6 HEARING OFFICER BERLAND: Mr. Roddy, how
7 does this February 1, 2007, case incident report
8 assist the Respondent in the defenses that have
9 been presented during this hearing?

10 MR. RODDY: I think it again buttresses what
11 we produced today, that the April 16th arrest had
12 nothing to do with the filing of the IPRA
13 complaint on the 15th.

14 There is a citizen's complaint.

15 There is observation by the officer and there is
16 a finding in court. That's three. And four, to
17 buttress it or bootstrap it is to show there was
18 an outstanding complaint by the owner of the
19 establishment as far back as February telling the
20 officer that this was going on.

21 So he did have reasonable belief to
22 arrest him at any time.

23 HEARING OFFICER BERLAND: Okay. I'm going
24 to admit it over objection. Let the Board decide

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1 as part of its deliberations.
2 (WHEREUPON, Respondent
3 Exhibit No. 1 was admitted
4 into evidence.)
5 MS. TAMRAT: In addition to that, you said
6 numerous times, Mr. Berland, this is a police
7 report, it cannot be admitted into evidence
8 because it is hearsay.
9 HEARING OFFICER BERLAND: There are no
10 statements in here -- well, there are.
11 MS. TAMRAT: It is hearsay. It is a police
12 report. Whatever is in this document is
13 prohibited from being entered into evidence.
14 The Police Board rules prohibit
15 hearsay clearly. And Illinois law does prohibit
16 police records from being admitted into evidence
17 because it's hearsay.
18 MR. RODDY: But what's in that report,
19 Mr. Berland, is no different than Mr. Vanuvel who
20 will testify to --
21 MS. TAMRAT: That still doesn't solve the
22 problem.
23 MR. RODDY: Then delete it. But I want the
24 February 1st part in there.

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1 HEARING OFFICER BERLAND: Let's delete the
2 part that says incident narrative. That's
3 stricken. I'll mark it as stricken on my copy.
4 And I would ask Mr. Roddy to submit a copy to the
5 Police Board which does not contain that
6 language. And to the extent he wants to argue,
7 as he's indicated, that information on this
8 document which does not relate to the incident
9 narrative, I will not preclude him from doing so.
10 So when we complete the hearing
11 today, just have Mr. Caproni or his assistant
12 copy it so that that incident narrative is not
13 part of the record.
14 MS. TAMRAT: I'm sorry. That goes for both
15 pages? Because there's a little bit of narrative
16 on the second page as well.
17 HEARING OFFICER BERLAND: The second page
18 that Mr. Roddy gave me, it's almost blank. I
19 assume I have the same copy.
20 MR. RODDY: You got a police report.
21 MS. TAMRAT: That is what you gave us the
22 other day.
23 HEARING OFFICER BERLAND: Mr. Roddy, why
24 don't you hand the document and make a copy for

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1 the Superintendent's counsel if necessary. We
2 should be talking about the same document.
3 MS. TAMRAT: We didn't get this.
4 HEARING OFFICER BERLAND: It's the same as
5 that.
6 MS. TAMRAT: As this?
7 MS. DUNCAN: All this narrative is different
8 than what --
9 MS. TAMRAT: I guess I haven't seen this
10 one.
11 HEARING OFFICER BERLAND: Off the record.
12 Let's do that.
13 (Brief pause.)
14 HEARING OFFICER BERLAND: Back on the
15 record.
16 Mr. Roddy has now marked a document
17 that the Superintendent does have in front of him
18 as a two-page case report.
19 I will admit the document, but all
20 information that is part of the narrative will be
21 redacted and will not be part of the record in
22 this case.
23 So that should be done today at the
24 conclusion of the hearing and a copy to the

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1 Police Board.
2 MS. TAMRAT: Just so it's clear on the
3 record, we had objected to what we believed you
4 had been handed before, so the same objection
5 that we made previously applies to what has been
6 marked --
7 HEARING OFFICER BERLAND: Of course.
8 MS. TAMRAT: Admitted over objection.
9 HEARING OFFICER BERLAND: Correct.
10 Any further documents you want
11 to --
12 MR. RODDY: Number 2, which Mr. Duffy
13 identified.
14 HEARING OFFICER BERLAND: Number 2 is the
15 event inquiry?
16 MR. RODDY: Right.
17 MS. TAMRAT: We would object. I mean he did
18 testify about it, but the proper foundation has
19 not been laid for it. And it contains hearsay
20 information. So we would object to it actually
21 be admitted into evidence.
22 HEARING OFFICER BERLAND: I think it goes to
23 his state of mind. They are correct you didn't
24 lay the foundation, Mr. Roddy. Can you work out

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1 an agreement so we can -- is there any real
2 question this event query is a legitimate police
3 department document?
4 MR. RODDY: Is there any question that it is
5 not --
6 HEARING OFFICER BERLAND: I'm asking counsel
7 whether they can agree to that. She's made an
8 objection based on foundation. She is correct,
9 that other than the respondent testifying, this
10 is what he was told, there is no other foundation
11 in the record with respect to that document. Can
12 we have a stipulation that it is an authentic
13 document?
14 MS. TAMRAT: Like I said, our objection is
15 based on hearsay and foundation. So we --
16 HEARING OFFICER BERLAND: I just said it is
17 not admitted for the truth. It is admitted to
18 his state of mind which is very relevant to this
19 particular proceeding. So that objection is
20 overruled. Can we have a stipulation as to the
21 foundation?
22 MS. TAMRAT: Our response would be Mr. Duffy
23 is not the appropriate witness to lay the
24 foundation for it, and that foundation has not

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1 been laid. He did testify about it, and
2 Mr. Askew testified about the call he received.
3 Other than that, we maintain our objection.
4 HEARING OFFICER BERLAND: Mr. Roddy, I don't
5 know that it makes sense for us to continue this
6 hearing so that you can get this document --
7 MR. RODDY: It's almost priceless for the
8 City. I got this document from the City. It's
9 marked as a City exhibit. It's marked as their
10 attachment.
11 HEARING OFFICER BERLAND: Okay. As both
12 sides know, they're making a change in procedure
13 some day and we may not deal with these types of
14 issues hopefully in the future, because both
15 sides will have to stipulate to the authenticity
16 of documents or provide the hearing officer with
17 a substantial reason why they can't do so.
18 Under the circumstances of
19 this case, when those rules are not in effect, do
20 you want to withdraw your request for --
21 MR. RODDY: No, I'd rather you deny it on
22 the record.
23 HEARING OFFICER BERLAND: Denied for lack of
24 foundation only.

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1 MR. RODDY: We would move to introduce
2 Exhibits 3 and 4 in evidence.
3 HEARING OFFICER BERLAND: Any objection to
4 that?
5 MS. TAMRAT: May I have a moment, please.
6 (Brief pause.)
7 MS. TAMRAT: We would object as to
8 relevance. One is dated -- Askew 3 is dated
9 September of '06. And Askew 4 is dated February
10 of '07.
11 HEARING OFFICER BERLAND: Mr. Roddy, do you
12 want to respond?
13 MR. RODDY: The relevance is to show that he
14 had gotten a multitude of breaks, despite that
15 the owner complained, repeatedly by Officer Askew
16 and that's why it's introduced, to show prior to
17 that time when given a multitude of breaks by
18 this officer.
19 HEARING OFFICER BERLAND: I think the
20 officer testified to that the first time that he
21 was on the stand, and I will let the Board
22 determine the relevance.
23 If any of the actual tickets -- the
24 mere fact of their existence I think is something

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1 the Board can consider in connection with the
2 overall issues of the case. So 3 and 4 are
3 admitted over objection.
4 (WHEREUPON, Respondent
5 Exhibit Nos. 3 and 4 were
6 admitted into evidence.)
7 MR. RODDY: We rest.
8 HEARING OFFICER BERLAND: Okay. Any
9 rebuttal?
10 MS. TAMRAT: No.
11 HEARING OFFICER BERLAND: Are we ready to go
12 directly into closing argument?
13 MS. FLAHERTY: Few minutes, please.
14 HEARING OFFICER BERLAND: Okay. Let's take
15 five.
16 (Recess.)
17 HEARING OFFICER BERLAND: Ready for closing
18 argument. Who is going to give the close?
19 MS. DUNCAN: I will. Mr. Hearing Officer,
20 members of the Board, the evidence that has been
21 presented in this hearing shows that Police
22 Officer Bruce Askew engaged in unjustified
23 physical contact when he came into a currency
24 exchange and pushed civilian Jimmy Brown April

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1 15th, 2007.
2 As a result of the April 15th
3 battery by Officer Askew, Jimmy Brown filed a
4 complaint with the Office of Professional
5 standards against Officer Askew. The following
6 day Officer Askew returned to the currency
7 exchange and arrested Jimmy Brown in retaliation
8 for Mr. Brown filing a complaint with the Office
9 of Professional Standards, which is now the
10 Independent Police Review Authority.
11 The Superintendent has withdrawn
12 the Rule 14 violation and remaining charges
13 against Officer Askew are that he violated rules
14 one, two and nine of Article 5 of the rules and
15 regulations of the Chicago Police Department.
16 Officer Askew violated rule one
17 when he committed a battery against Jimmy Brown
18 on April 15th, 2007, when he pushed Mr. Brown in
19 the chest in violation of Chapter 720 ILCS
20 5/12-382.
21 By pushing Jimmy Brown April
22 15th and also pushing newspapers on the floor of
23 the currency exchange on that date, Officer Askew
24 violated rule two.

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1 He further committed a rule two
2 violation when Officer Askew arrested Jimmy Brown
3 on April 16th, 2007, in retaliation for filing a
4 complaint against Officer Askew with OPS.
5 Officer Askew violated rule nine by
6 engaging in unjustified verbal or physical
7 altercation with Jim Brown on April 15th when he
8 pushed Jimmy while off duty.
9 In his own testimony, Officer Askew
10 admitted that around 6:30 a.m. on April 15th,
11 2007, he entered the currency exchange near 69th
12 and Ashland while off duty and on his way to work
13 because he saw Jimmy Brown inside. He admitted
14 that he had pushed Jimmy Brown in the chest and
15 shoulder area. Officer Askew told him, and I
16 quote, "I got you." Officer Askew also said,
17 "Get the hell out."
18 Officer Askew pushed newspapers
19 Mr. Brown had previously placed on the window
20 ledge of the currency exchange onto the floor.
21 Officer Askew did not arrest Jimmy
22 Brown or write him a ticket.
23 Officer Askew admitted that when
24 asked during the statement he gave to

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1 Investigator Jessica Sanchez of the Office of
2 Professional Standards on June 4th, 2007, the
3 question was did you arrest Brown April 16th,
4 '07, because he filed a complaint against you?
5 Officer Askew in his own words answered, no, I
6 arrested him because he cheated and bent the
7 rules of the game.
8 Investigator Sanchez then asked
9 Officer Askew, please explain what you mean by he
10 cheated and bent the rules of the game. Officer
11 Askew then replied in his own words, "Because he
12 filed a complaint with OPS and now I'm not going
13 to cut him a break when he commits a crime. I
14 have to go by the books and arrest him."
15 On April 15th, 2007, when Officer
16 Askew saw Mr. Brown again, Officer Askew told
17 him, "The game has just begun."
18 Mr. Brown's testimony corroborated
19 Officer Askew's own admission regarding the fact
20 that Officer Askew pushed Mr. Brown in the chest
21 area and pushed newspapers Mr. Brown had placed
22 on a window ledge onto the floor.
23 The April 15th, '07, incident is
24 also captured on surveillance video which has

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1 been entered into the evidence as Superintendent
2 Exhibit No. 1.
3 It shows Officer Askew storm into
4 the currency exchange and push Mr. Brown.
5 The video does not show Mr. Brown
6 provoking Officer Askew and there was no
7 testimony to that effect during this hearing.
8 The video does not show Mr. Brown
9 push Officer Askew or otherwise put his hands on
10 him, nor is there testimony that Mr. Brown did
11 so.
12 The video and the testimony show
13 that an off-duty Officer Askew in a Mickey Mouse
14 sweatshirt with the hood pulled up over his head
15 stormed into the currency exchange and pushed Jim
16 Brown in the chest area.
17 Opposing counsel attempted to
18 impeach Jimmy Brown regarding his visit to the
19 hospital as a result of the incident with Officer
20 Askew on April 15th.
21 Mr. Roddy during his
22 cross-examination of Jimmy Brown said, isn't that
23 the main reason and the only reason that you went
24 to Holy Cross Hospital was because you were

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1 afraid of the pain you were losing -- you were
2 losing your leg?

3 However, the medical records that
4 were introduced into evidence as Superintendent's
5 Exhibit No. 5 indicate on page one that Jimmy
6 Brown's chief complaint was hit to the throat on
7 Sunday. Still has pain in head.

8 On page three, the chief complaint
9 in the emergency department express record says
10 headache. Again on page four the symptoms say
11 headache.

12 Mr. Brown also indicated on a scale
13 of one to ten his pain was ten.

14 On page five of Superintendent's
15 Exhibit No. 5, there is an indication Tylenol was
16 given for his headache.

17 And again on page seven in the
18 nurse's notes is indicated that Mr. Brown said
19 that he was complaining of headache and pain.

20 So, Jimmy Brown's testimony was
21 corroborated by the hospital records that were
22 admitted into evidence today.

23 We heard from Dana Cail, the
24 subpoena clerk at Holy Cross Hospital who

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1 testified with respect to Mr. Brown's emergency
2 department triage notes and medical records,
3 indicating his chief complaints were hit to the
4 throat on Sunday and headache.

5 During Mr. Roddy's
6 cross-examination of Mr. Brown, Mr. Brown's
7 arrest history was also allowed into the record
8 over Superintendent's objections under the guise
9 of showing bias.

10 However, Mr. Roddy admitted on the
11 record that he was attempting to admit Jimmy
12 Brown's arrest records to show a pattern of
13 behavior that Mr. Brown is "still doing the very
14 same thing he was arrested for on April 16th."
15 That is not an example of showing bias.

16 Mr. Brown's arrest history is
17 irrelevant to the issues before the Board.

18 Mr. Brown's testimony was not shown
19 to be biased by any prior -- any of his prior
20 arrests.

21 In fact, his statements regarding
22 Officer Askew's conduct were consistent with what
23 the video showed and even the testimony Officer
24 Askew gave at this hearing.

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1 It should not matter whether Jimmy
2 Brown sells newspapers or CEO of the company.
3 The evidence is clear Officer Askew pushed
4 Mr. Brown. Testimony with respect to an arrest
5 history is unnecessary and has no bearing on the
6 fact of Officer Askew's actions. In his own
7 words, Officer Askew admitted to pushing Jimmy
8 Brown. He admitted although he put his hands on
9 Mr. Brown, he did not arrest him.

10 Further, Michael Duffy from the
11 Independent Police Review Authority, formerly
12 Office of Professional Standards, testified that
13 the proper procedure for a Chicago police officer
14 who had reason to believe a crime had been or was
15 being committed would be to take police action.

16 Here Officer Askew took matters
17 literally into his own hands and pushed a
18 civilian.

19 Officer Askew testified that he was
20 justified in pushing Jimmy Brown. This is a
21 police officer who testifies on the witness stand
22 that he is justified in barging into a currency
23 exchange, putting his hands on a civilian with
24 such force as to push the individual out of the

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1 frame of view in the surveillance tape.

2 Officer Askew thinks he is
3 justified in pushing an individual who as we saw
4 during the course of this hearing is a frail,
5 elderly man, a civilian.

6 Officer Askew was off duty, not in
7 imminent danger, did not take police action and
8 still thinks his actions were justified.

9 Officer Askew committed a battery
10 on April 15th, 2007, that's undisputed and has
11 been shown through testimony and clear from the
12 video that's been entered into evidence as
13 Superintendent's Exhibit No. 1.

14 There's also testimony about
15 Officer Askew that prior to April 15th, 2007, he
16 had not arrested Jimmy Brown. However, after
17 that date, after Jimmy Brown's complaint with
18 Office of Professional Standards, he's suddenly
19 getting arrested by Officer Askew where he never
20 had been in the past.

21 In his own words, again, Officer
22 Askew said he arrested Jim Brown because he
23 cheated and bent the rules of the game by filing
24 a complaint with the Office of Professional

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1 Standards.
2 Michael Duffy testified about the
3 significance of arrest for retaliation of filing
4 complaints. The Independent Review Authority is
5 a body established in part to investigate police
6 misconduct.
7 For a police officer to make a
8 decision regarding use of police power, based on
9 whether or not person has filed a complaint
10 against that officer, is an inappropriate use of
11 the officer's discretion, has a chilling effect
12 on citizens.
13 Members of the public must be
14 confident their complaints must be taken
15 seriously and they may report misconduct without
16 fear of retaliation.
17 In the Chicago Police Department's
18 rules and regulations under Roman numeral I,
19 section B, it states, and I quote, "A police
20 officer is the most conspicuous representative of
21 government. And to the majority of the people he
22 is a symbol of stability and authority upon whom
23 they can rely. An officer's conduct is closely
24 criticized when his actions are found to be

1 MS. DUNCAN: Objection.
2 MS. TAMRAT: Objection.
3 HEARING OFFICER BERLAND: I think the
4 objection as to will commit crime is sustained.
5 MR. RODDY: I think that's fair evidence
6 where a man has for the last 10 or 12 years
7 committed crime after crime, continued to commit
8 crimes after this arrest up until June he
9 committed them. That's in evidence. And I think
10 it's fair evidence that he might continue to
11 commit crimes.
12 MS. TAMRAT: Objection.
13 HEARING OFFICER BERLAND: That part of it is
14 -- the objection is sustained and that's
15 stricken.
16 MR. RODDY: That's improper, Mr. Berland,
17 because I think it's fair argument on the basis
18 of the track record of Mr. Brown.
19 HEARING OFFICER BERLAND: I understand.
20 MR. RODDY: So this frail elderly man who
21 has had numerous arrests, and it took him four
22 and a half days to get to Holy Cross Hospital.
23 Okay. Because the arrest -- or strike that. The
24 video is about 6:30 in the morning on April 15th

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1 excessive, unwarranted or unjustified. He and
2 the department are criticized far more severely
3 than comparable conduct of persons in other walks
4 of life. Since the conduct of a member on or off
5 duty does reflect directly upon the department, a
6 member must be at all times -- must at all times
7 conduct himself in a matter which does not bring
8 discredit to himself, the department or the
9 city."
10 This officer, Officer Bruce Askew,
11 has testified that he is justified in committing
12 a battery against a civilian.
13 Officer Askew's conduct shows a
14 complete disregard for the rules and regulations
15 of the City of Chicago Police Department and it's
16 unacceptable for a department member.
17 For all the foregoing, the
18 Superintendent respectfully requests that you
19 discharge Officer Bruce Askew. Thank you.
20 HEARING OFFICER BERLAND: Mr. Roddy.
21 MR. RODDY: This frail elderly man by the
22 name of James Brown continues to commit crimes
23 and has committed crimes and will commit crimes
24 and --

1 and he arrives at Holy Cross Hospital on April
2 19th at 10:35. Okay.
3 And let's look at the most
4 important part, because you'll not see that there
5 -- first of all, where does the injury to the
6 head come? Because he even testified that the
7 push was to the chest and neck area as does
8 Officer Askew. But the doctor's final diagnosis
9 you will never see anything about an injury to
10 the head, injury to the neck, a bruise,
11 ecchymosis, a contusion, abrasion or anything.
12 It's got to do with his prior -- prior Doppler
13 studies, which is why he was there because his
14 feet needed to be cut off. He's got
15 thrombophlebitis and cellulitis, neither one has
16 any relevancy whatsoever to this case.
17 Let's look at this. You know, they
18 conveniently forget that they started off off
19 with the main thrust of their investigation was
20 this video and the Rule 14 and the retaliation.
21 Okay.
22 Now, the fact that they dismissed
23 Rule 14 I think has some substance for the Board
24 to really understand why they dismissed it,

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1 because they were dead bang wrong.
2 What they tried to show -- what
3 they tried to show, Mr. Berland, by the Rule 14
4 is that there was no prior report. And they do,
5 with all due respect, they were trying to
6 bootstrap that in to the arrest on April 16th by
7 showing, no, you're talking about something that
8 never existed. So you in reality, Mr. Askew --
9 MS. TAMRAT: Objection.
10 MR. RODDY: Can I finish my argument, please?
11 MS. TAMRAT: It's been withdrawn.
12 MR. RODDY: Still part of the record.
13 HEARING OFFICER BERLAND: It's part of the
14 record. Proceed.
15 MR. RODDY: What they tried to do is to say,
16 well, there was no prior confrontations and he
17 just went in there and arrested him on April 16th
18 because of his complaint on April 15th. That's
19 just wrong. Because Mr. Vanuvel said for two
20 years, Mr. Berland, for two years he saw that guy
21 selling illegal cigarettes. For two years he saw
22 that. And then they want to fault him for not
23 arresting him before.
24 What he said and basically what he

1 April the 16th at 8.00 o'clock in the morning and
2 says I see the guy out there selling drugs and
3 selling cigarettes. That's a citizen, okay.
4 Then the officer goes there and he sees it.
5 That's step two. And he's arrested. And then
6 what happens, step three, lo and behold, one of
7 those two men that the citizen said saw it, that
8 the policeman saw it, one of those two men,
9 Saffold, pleads guilty and Mr. Brown is found
10 guilty. Where is the retaliation? Was it a
11 citizen that was upset because there was a
12 complaint filed? No. This was a fact. Was it
13 any different than any other event that
14 Mr. Vanuvel talked about, that the officer talked
15 about, that the prior tickets show, he's out
16 there selling cigarettes or doing whatever he
17 does. Every day he is doing it. So it was not
18 unusual. It was not retaliation. It was not
19 retaliation whatsoever.
20 Yes, he said the game has changed.
21 Because I cut you so many breaks in the past by
22 only giving you tickets and now you complain
23 about me giving you breaks and me throwing the
24 newspapers on the floor.

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1 was saying is, look, I cut you so many breaks and
2 everybody cut you breaks. The owner cut you
3 breaks. Everybody cut you breaks, even though
4 you continuously, continuously violated the law.
5 Continuously and everything else.
6 So what he said that day I got
7 you -- and please look at that tape, because,
8 remember, Mr. Brown says I didn't recognize this
9 man. He had that over his face. That hood
10 wasn't over his face. I think if you'll see,
11 there's also the name tag is floating in the
12 wind, Officer Askew's name tag in the plastic
13 case.
14 And most important, you'll see not
15 only is his face not encumbered, Officer Askew,
16 but Mr. Brown is pointing at him like this. And
17 then he wants you to believe he didn't recognize
18 him. How could he not recognize when he has seen
19 him at least four, five, seven, eight times
20 before. Got tickets from him. Been hounded by
21 him. Been hounded by the owner of the place.
22 And then we go to the retaliation.
23 Then I want the City to answer how it's
24 retaliation when a citizen calls in, step one, on

1 That's what this case is all about.
2 And where in the world is the injury to this man?
3 What injury? What are we talking about here?
4 Look at that tape. Look at that tape. There is
5 not a single -- I think it's like two seconds on
6 the tape, it's a shove up in here in the neck and
7 shoulder area and the papers are thrown on the
8 floor. Was he upset? Yes. Because he has a
9 citizen by the name of Mr. Vanuvel saying hold
10 it, this guy's been doing this thing since
11 February, since the time I've been here. For two
12 years I keep complaining, complaining, and every
13 time the officer comes or someone comes just
14 saying like he is saying here, no, I don't do
15 that. No, those cigarettes are legit. No, I
16 only give cigarettes away. Come on.
17 Even the Board, this Board, can see
18 through that.
19 You know, this situation in the
20 medical report where he said he was allegedly hit
21 in the head. Where was he hit in the head? I
22 didn't see that. What took them four and a half
23 days to figure out he was hit in the head? I
24 don't know. But the medical records certainly

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1 don't substantiate this complaint here.
2 The first person to come out there
3 on April 15th is the sergeant. The sergeant says
4 is there anything the matter with you? He says
5 no. He says can I take some pictures? No. Are
6 you hurt? No. Is there anything I can do for
7 you? No. And then what does he say, well, I
8 didn't trust him either. Because there were no
9 injuries seen. Okay. What did Mr. Vanuvel have
10 to gain? He is the owner, managing partner, I
11 guess of one of these exchanges here. What did
12 he have to gain by coming in here. He is here by
13 subpoena and says this guy, Mr. Brown, has
14 continuously and ultimately notwithstanding we
15 have told him, notwithstanding we have warned
16 him, notwithstanding we have taken the papers
17 outside, he keeps continually doing the same
18 thing.
19 Do you really believe, Mr. Berland,
20 members of the Board, that he's out there selling
21 the Tribune or Sun-Times? No, he is not. He is
22 selling cigarettes which he purchases in Indiana.
23 If you read the transcript he keeps
24 saying no, they're from Indiana, and I just give

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1 them away and I smoke them myself and give them
2 away.
3 Even Judge Bourgeois saw through
4 that.
5 How about his partner? How does
6 the City explain that two people are seen by a
7 citizen selling cigarettes? Okay. The citizen
8 complains and they're selling cigarettes, plus
9 whatever they're doing, and then one of them
10 pleads guilty.
11 Did Charlie McCarthy fall far away
12 from Edgar Bergin here or what? They are both
13 tied up as tandem. One is pleading guilty to the
14 very thing that they are claiming is in
15 retaliation which is nonsense. And the other one
16 is found guilty because he saw through that
17 nonsense. And I'm sure the Board will see
18 through that nonsense.
19 19 years on the job. That's what
20 this man has. Look at his record. It's
21 excellent and it should be excellent because he
22 does one great job on behalf of the citizens out
23 there.
24 I can't help that this whole

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1 investigation was triggered by an honest mistake
2 by an investigator that she didn't see this prior
3 report.
4 And you know and I know and the
5 Board will know, Mr. Berland, that that's the
6 essence of why we're here, is because they
7 thought his defense was a lot of nonsense on two
8 bases. One, that he lied to them because there
9 was no prior contact and no prior complaints and
10 nothing about the conduct prior to April 15th,
11 and then on April 16th there was a retaliatory
12 move by him.
13 Both of those have been completely
14 dispelled by this record. He deserves to go back
15 to work. The citizens after 19 years want him
16 back to work. And this record screams out for
17 the fact that he should not be discharged.
18 HEARING OFFICER BERLAND: Thank you. Any
19 rebuttal?
20 MS. DUNCAN: Yes, please.
21 If for years Officer Askew was
22 cutting Jimmy Brown breaks, then suddenly after
23 April 15th, 2007, he's no longer cutting breaks,
24 one thing changed between the time before the

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1 15th of April of '07 and after that, there is an
2 OPS complaint that was filed by Jimmy Brown. His
3 behavior as Mr. Roddy would like you to think was
4 not changing, it was that there was an OPS
5 complaint that was filed and suddenly he is
6 getting arrested by the Officer Askew when in the
7 past he had not been, as Officer Askew testified
8 in his own statement and Mr. Roddy points out in
9 his closing.
10 Additionally, as the record will
11 show, Jimmy Brown testifies that he initially did
12 not recognize Officer Askew as being Officer
13 Askew.
14 He was aware that there was a
15 police officer in the neighborhood named Askew or
16 named Bruce, but at the moment when he came into
17 the currency exchange, and that video shows he
18 has his hood pulled up, not over his face, but on
19 his head, and Mr. Brown testified that he could
20 not recognize him at first, that he came in like
21 a raging bull. And Mr. -- Officer Askew in his
22 own testimony on the first day of hearing
23 admitted his badge was not visible, not that it
24 was swinging as Mr. Roddy would have you believe.

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1 It was not visible.

2 He had a hood pulled up, was not in
3 uniform, uniform pants but hooded sweatshirt on
4 when he came in and pushed Jimmy Brown.
5 Further, Officer Askew's arrest on
6 the 16th of April was in retaliation for filing
7 OPS complaints because in his own words he said
8 that's why he did it.

9 As the record will show, yes, there
10 was a call that came in, there's perhaps been
11 calls in the past.
12 Officer Askew even said he cut him
13 breaks in the past. On this particular day, the
14 reason why he decided to arrest him using his
15 discretion was because of an OPS complaint that
16 Jimmy Brown had filed. And in his own statement
17 which is in evidence which he has testified to at
18 this hearing as well, when asked he did say that
19 he arrested him because he even broke the rules
20 of the game and that meant that he filed an OPS
21 complaint.

22 Further, the criminal trespass case
23 report has no relation to the April 16th, 2007,
24 arrest by Officer Askew of Jimmy Brown. It's a

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1 separate issue that a charge was withdrawn.

2 There were remaining charges from
3 the onset that the Superintendent has proved in
4 this hearing.

5 And with respect to the battery,
6 the fact that an officer thinks that he can put
7 his hands on someone in an unjustified manner
8 without arresting that individual where testimony
9 has been given and he understands that he is
10 supposed to arrest someone if he finds reason to
11 put his hands on that person, is unacceptable and
12 should not -- he was not charged with creating
13 bodily harm. The charge was with respect to
14 making physical contact of an insulting or
15 provoking nature with an individual. That's in
16 the statute which is Superintendent's Exhibit No.
17 6 and the charges as well. And the conduct as
18 shown in the video and the testimony was physical
19 in nature and evidence resulting -- or provoking
20 nature caused by Officer Askew of -- against
21 Jimmy Brown.

22 Superintendent believes it has
23 proved its case with respect to the remaining
24 charges and the Officer Askew should be

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1 discharged.

2 HEARING OFFICER BERLAND: Thank you. The
3 hearing of Officer Askew has been completed. The
4 members of the Board will receive a transcript of
5 the proceeding and also a videotape of the
6 proceeding. Those will be reviewed before the
7 Board meets in executive session. The Board will
8 meet in executive session to decide this case.

9 After it meets in executive
10 decision, the original decision will be prepared
11 and incorporated in the Board's findings. That
12 written decision will be sent to all counsel and
13 the case is taken unit advisement as to such time
14 the written decision is forwarded to counsel.

15 MS. DUNCAN: Thank you.

16 MR. RODDY: Thank you.

17 HEARING OFFICER BERLAND: Thank you.
18 (WHICH WERE ALL THE PROCEEDINGS HAD.)
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22
23
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1 STATE OF ILLINOIS }
2 COUNTY OF C O O K } ss:
3

4 MAUREEN A. WOODMAN, C.S.R., being first
5 duly sworn, says that she is a court reporter
6 doing business in the City of Chicago; that she
7 reported in shorthand the proceedings had at the
8 arbitration of said cause; that the foregoing is
9 a true and correct transcript of her shorthand
10 notes, so taken as aforesaid, and contains all
11 the proceedings of said arbitration.
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MAUREEN A. WOODMAN